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10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF NEVADA  
12

13 LORENE MCCALL,

14 Plaintiff,

15 vs.

16 STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY; DOES 1  
17 through 10, inclusive, and ROE  
CORPORATIONS I through 10, inclusive,  
18 Defendants.  
19

CASE NO. 2:16-cv-1058-JAD-GWF

**STIPULATED CONFIDENTIALITY  
AGREEMENT AND PROTECTIVE  
ORDER**

20 It appearing to the Court that the Plaintiff LORENE MCCALL ("Plaintiff") and  
21 Defendant STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY ("State  
22 Farm") are in agreement that State Farm possesses proprietary policies and procedures  
23 that include confidential information that may be subject to discovery in the proceedings  
24 in this matter but which should not be made available to the public generally, this Court  
25 hereby orders that:

26 1. This Confidentiality Agreement and Protective Order ("Order") shall govern  
27 certain discovery and document production among the parties, as well as discovery and  
28 document production from third parties, in the above-referenced action.

1           2.       For purposes of this Order, the term “Confidential Information” shall refer to:  
2 (1) information which any party or non-party believes in good faith to be a trade secret or  
3 confidential research, development, commercial, or other proprietary business  
4 information within the meaning of FRCP 26(c)(1)(G); and (2) documents and/or testimony  
5 that may reveal confidential, proprietary, personal or commercially sensitive information.  
6 Such Confidential Information may be contained in any written, printed, recorded, or  
7 graphic matter of any kind, and shall retain its confidential designation regardless of the  
8 medium on which it is produced, reproduced, or stored. Such Confidential Information  
9 may also be elicited at deposition or through written discovery.

10           3.       Whenever any party or non-party desires to designate information  
11 contained in a document as Confidential Information, the designating party shall mark  
12 each page of the document with the word “CONFIDENTIAL” and identify such  
13 Confidential Information at the time of production. Confidential Information may be used  
14 in the course of depositions in accordance with this Order.

15           4.       Transcripts or exhibits from any deposition or hearing shall be temporarily  
16 designated as “Confidential” and be treated as subject to the terms of this Order. Within  
17 forty-five (45) days of receipt of such transcripts and exhibits, Counsel will designate the  
18 pages of the transcripts or exhibits which shall remain designated as “Confidential” and  
19 will advise all other parties. If no designation is made within forty-five (45) days, the  
20 entire transcript and all exhibits will be deemed not confidential.

21           5.       All documents produced or information disclosed and any other records  
22 designated as “confidential” by State Farm shall be revealed only to:

- 23           a)       Plaintiff;  
24           b)       Plaintiff’s counsel of record in this case;  
25           c)       Defendant;  
26           d)       Defendant’s counsel of record in this case;  
27           e)       Paralegals and secretarial employees under counsel's direct supervision;

- 1 f) Outside photocopying, translating, document management, and exhibit
- 2 preparation services engaged by a party for purposes of this litigation;
- 3 g) Persons employed by counsel to act as consultants or experts in this action;
- 4 h) Any other person State Farm agrees in writing may be shown such
- 5 documents; and
- 6 i) The Court and court personnel, stenographic reporters, and videographers
- 7 at depositions taken in this action, and any jury empanelled in this action,
- 8 subject to the protections of Paragraphs 3, 4, and 9 of this Order;

9 6. The information considered as “confidential” and disclosed only in accord  
10 with the terms of Paragraph 5 shall include, without limitation, any claims manual, training  
11 materials, and any other information or documentation supplied by State Farm and  
12 designated as “Confidential.”

13 7. Documents deemed confidential by State Farm shall be used only for the  
14 purposes of prosecuting or defending this action. Under no circumstances shall  
15 information or materials covered by this Order be disclosed to or discussed with anyone  
16 other than the individuals designated in Paragraph 5.

17 8. Prior to disclosure of any documents designated as “confidential” to any  
18 individual who is not a signator to this Order, counsel shall require such individual to read  
19 this Order and sign the Agreement which is attached hereto as **Exhibit A** and provide a  
20 copy of the signed Agreement to counsel for State Farm.

21 9. Prior to filing any motion wherein information designated as “Confidential” is  
22 attached, Plaintiff shall comply with LR 10-5(b) and *Kamakana v. City and County of*  
23 *Honolulu*, 447 F.3d 1172 (9th Cir. 2006), or provide Counsel for Defendant reasonable  
24 time, but in any event not fewer than 10 judicial days, to file a motion pursuant to LR 10-  
25 5(b) and *Kamakana* to show particularized good cause or particularized compelling  
26 reasons to file those documents under seal.

27 LR 10-5(b) provides:

28 Unless otherwise permitted by statute, rule or prior Court

1 order, papers filed with the Court under seal shall be  
2 accompanied by a motion for leave to file those documents  
3 under seal, and shall be filed in accordance with the Court's  
4 electronic filing procedures. If papers are filed under seal  
5 pursuant to prior Court order, the papers shall bear the  
6 following notation on the first page, directly under the case  
7 number: "FILED UNDER SEAL PURSUANT TO COURT  
8 ORDER DATED \_\_\_\_." All papers filed under seal will  
9 remain sealed until such time as the Court may deny the  
10 motion to seal or enter an order to unseal them, or the  
11 documents are unsealed pursuant to Local Rule.

12 Pursuant to *Kamakana* and LR 10-5(b), any documents designated as  
13 "Confidential" and attached to a non-dispositive motion must be accompanied by a motion  
14 showing a particularized good cause for leave to file those documents under seal.  
15 Furthermore, any documents designated as "Confidential" and attached to a dispositive  
16 motion must be accompanied by a motion showing a particularized compelling reason for  
17 leave to file those documents under seal.

18 10. This Order is subject to revocation and modification by Order of the Court  
19 upon written stipulation of the parties, or upon motion and reasonable notice, including  
20 opportunity for hearing and presentation of evidence.

21 11. If any Party disagrees with the designation of materials marked  
22 "Confidential," the objecting Party shall provide written notice of the disagreement to  
23 State Farm, requesting a meeting to confer with counsel for State Farm to resolve the  
24 dispute over the "Confidential" designation. If the dispute over the designation is not  
25 resolved informally between the parties, State Farm will file a motion with the Court to  
26 resolve the dispute regarding the "Confidential" designation. State Farm will have 30  
27 days from the date in which the parties meet and confer regarding the dispute over the  
28 designation in which to file a motion with the Court regarding the designation. In any  
event, unless and until a Court ruling is obtained changing a designation, or the Party  
designating the materials as "Confidential" agrees otherwise in writing, the material  
involved shall be treated according to the existing "Confidential" designation.

1           12. This Confidentiality Agreement and Protective Order shall survive the  
2 termination of this case and counsel shall take no action to violate this Agreement.  
3 However, this clause does not require counsel to take actions contrary to the Rules of  
4 Professional Conduct, which impose an obligation upon counsel to safeguard client  
5 property for a reasonable period of time.

6           13. In any action or proceeding to enforce this Order, or pursuant to paragraph  
7 12, the prevailing party shall be entitled to recover its reasonable attorneys' fees and  
8 costs, without limiting any other relief that may be available, provided the Court  
9 determines there was a willful and malicious violation of the Confidentiality Agreement  
10 and Protective Order.

11           14. This Order shall remain in effect after the conclusion of this case and the  
12 Court shall retain jurisdiction to enforce its terms and to prevent or punish violations of it.

13           15. This Order may be executed in counterparts, each of which shall constitute  
14 one and the same agreement.

15 Dated this 9<sup>th</sup> day of August, 2017.

Dated this 9<sup>th</sup> day of August, 2017.

16 LEWIS BRISBOIS BISGAARD & SMITH LLP

GANZ & HAUF

17  
18 */s/ Cheryl A. Grames*

*/s/ Marjorie Hauf*

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28 IT IS SO ORDERED:

*George Foley Jr.*  
UNITED STATES MAGISTRATE JUDGE

DATED: 8/10/2017